

22-7-109 Treatment and allocation of income.

Following the conversion of an income trust to a total return unitrust or upon creation of a total return unitrust by a settlor, the trustee:

- (1) shall treat the unitrust amount as if it were net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust; and
- (2) may allocate to trust income for each taxable year of the trust, or portion of a taxable year:
 - (a) net short-term capital gain described in Section 1222(5), Internal Revenue Code, for the year, or portion of the year, but only to the extent that the amount allocated, together with all other amounts allocated to trust income for the year, or portion of the year, does not exceed the unitrust amount for the year, or portion of the year; and
 - (b) net long-term capital gain described in Section 1222(7), Internal Revenue Code, for the year, or portion of the year, but only to the extent that the amount allocated, together with all other amounts, including amounts described in Subsection (1), allocated to trust income for the year, or portion of the year, does not exceed the unitrust amount for the year, or portion of the year.

Enacted by Chapter 244, 2013 General Session